

Appl. No. 09/964,910

Reply to Office Action of August 27, 2003

REMARKS

In the Office Action, the title is objected to; claims 8, 10, 11, 14, 16-18, 20, 21, 23 and 26 are rejected under 35 U.S.C. § 102; and claims 9, 12, 13, 15, 19, 22, 24 and 25 are rejected under 35 U.S.C. § 103. Claims 8, 14 and 21 have been amended; and claims 9 and 15 have been canceled. Claims 27-32 have been withdrawn from consideration in response to a previously-submitted restriction requirement. Applicants believe that the rejections have been overcome in view of the amendments and/or for the reasons set forth below.

At the outset, the title has been objected to. In this regard, the Patent Office alleges that the title is not descriptive. In response, Applicants have amended the title. Thus, Applicants believe that this objection should be withdrawn.

In the Office Action, claims 8, 10, 11, 14, 16-18, 20-21, 23 and 26 are rejected under 35 U.S.C. § 102. More specifically, claims 8, 10, 14, 16-18, 20, 21 and 26 are rejected in view of U.S. Patent No. 6,589,682 ("Fleckner") as evidenced by U.S. Patent Publication No. 2003/0048057 ("Oyama"); and claims 8, 11, 14, 16, 21 and 23 are rejected in view of U.S. Patent No. 6,013,371 ("Hager") as evidenced by Kordes et al.

Although Applicants believe that it is improper for the Patent Office to reject the claims as allegedly anticipated while effectively relying on more than one reference, Applicants have amended independent claims 8, 14 and 21 to further include the features as defined in claim 9 or claim 15 in the spirit of cooperation and in order to attempt to expedite prosecution with respect to the present application. Applicants note for the record that they reserve the right to file a continuation application directed to any claimed subject matter that has allegedly been canceled in view of the amendments. Based on at least these reasons, Applicants believe that the anticipation rejections should be withdrawn.

In the Office Action, claims 9, 12, 13, 15, 19, 22, 24 and 25 are rejected under 35 U.S.C. § 103. More specifically, claims 12, 13, 19, 22, 24 and 25 are rejected in view of Fleckner and Oyama and further in view of U.S. Patent No. 6,031,371 ("Hager"); and claims 9 and 15 are rejected in view of Fleckner and Oyama. Applicants believe that the obviousness rejections should be withdrawn based on at least the reasons set forth below.

At the outset, Applicants have amended independent claims 8, 14 and 21 to essentially include the features of claims 9 or 15. Each of dependent claims 12, 13, 19, 22, 24 and 25

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depend from either of independent claims 8, 14 and 21. Thus, the obviousness rejection with respect to claims 12, 13, 19, 22, 24 and 25 should be withdrawn.

With respect to the rejection of claims 9 and 15, this rejection has been rendered moot. As previously discussed, claim 8 has been amended to include the feature of claim 9 and claim 14 has been amended to include the feature of claim 15. Thus, as a matter of law, this rejection should be withdrawn.

Further, Applicants believe that the claims as presently pending are patentable over the cited art even if combinable. At the outset, the Patent Office relies on the Oyama reference in support of both of the obviousness rejections. However, Applicants believe that the Patent Office has improperly relied on the Oyama reference.

Foremost, Applicants believe that the Oyama reference should be precluded as prior art. Indeed, the Oyama patent publication was published on March 13, 2003 which is after the U.S. filing date (i.e., September 27, 2001) regarding the above-referenced patent application. Moreover, the Oyama patent application has an earliest effective 102(e) prior art date of September 10, 2002 which is again after the U.S. filing date of the present application. Based on at least these reasons, Oyama should be precluded as prior art in this case. Therefore, as a matter of law, the obviousness rejections must be withdrawn with respect to the pending claims. In any event, Applicants believe that the cited art, even if combinable, are patentably distinguishable from the claimed invention.

Accordingly, Applicants respectfully request that the obviousness rejections be withdrawn.

Applicants note for the record that Applicants submitted an information disclosure statement (IDS) on February 27, 2002 that was received by the U.S. Patent Office on March 11, 2002 as indicated by the date stamped postcard, a copy of which is enclosed herewith for the Patent Office's review and consideration. In view of same, Applicants kindly request that the Patent Office return to the undersigned attorney of record the PTO Form 1449 that was submitted with the IDS and that listed five references. Applicants request that the listed references be initialed by the Examiner to indicate that they have been considered during the examination of the present application. If the Patent Office should have any questions regarding

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this matter, Applicants kindly request that the undersigned attorney be contacted directly, such as by telephone if deemed appropriate, in order to bring prompt resolution to this matter.

For the foregoing reasons, the Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration of same.

Respectfully submitted,

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